

AMENDED IN ASSEMBLY JANUARY 15, 2010

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 220

Introduced by Assembly Member Brownley

(~~Coauthor: Assembly Member Caballero~~)

(*Coauthors: Assembly Members Caballero, Solorio, and Torlakson*)

February 4, 2009

An act to amend Sections ~~17070.15, 17070.63, 17071.75, 17072.32, 17074.15, 17074.16, 17074.26, and 17076.10~~ of the Education Code, relating to public education facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 220, as amended, Brownley. Public education facilities: Kindergarten-University Public Education Facilities Bond Act.

~~(1) Existing law, the California Constitution, prohibits the Legislature from creating a debt or liability that singly or in the aggregate with any previous debts or liabilities exceeds the sum of \$300,000, except by an act that (a) authorizes the debt for a single object or work specified in the act, (b) has been passed by a $\frac{2}{3}$ vote of all the members elected to each house of the Legislature, (c) has been submitted to the people at a statewide general or primary election, and (d) has received a majority of all the votes cast for and against it at that election.~~

The

(1) *The* Leroy F. Greene School Facilities Act of 1998 (Greene Act) requires the State Allocation Board (board) to allocate to applicant school districts, prescribed per-unhoused-pupil state funding for

construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition.

~~This bill would state the intent of the Legislature to enact legislation that would create a Kindergarten-University Public Education Facilities Bond Act, to become operative only if approved by the voters at the next statewide general election, and to provide for the submission of that act to the voters at that election. The bill also would state that it is the intent of the Legislature that such a bond act, if approved by the voters at that election, would provide for the issuance of an unspecified amount of state general obligation bonds to provide aid to school districts, county superintendents of schools, county boards of education, the California Community Colleges, the University of California, the Hastings College of the Law, and the California State University to construct and modernize education facilities.~~

~~(2) The Greene Act requires the board to allocate to applicant school districts, prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition.~~

~~This bill would define “cost of project” for purposes of the act as including the cost of all real estate property rights and easements acquired, the cost of developing the site, streets, and utilities immediately adjacent to the site, the cost of other offsite development not immediately adjacent to the site required by the project as consistent with the environmental impact report adopted by the governing board, the cost of construction, reconstruction, or modernization of buildings, and the furnishing and equipping, including the purchase of educational technology hardware, of those buildings, the supporting wiring and cabling, and the technological modernization of existing buildings to support that hardware, the cost of plans, specifications, surveys, and estimates of costs, and other expenses that are necessary or incidental to the financing of the project.~~

~~(3) Existing law requires a school district to certify that the grant amount provided under the act, combined with local funds, is sufficient to complete the school construction project for which the grant is intended.~~

~~This bill would modify the certification to instead be that the grant amount provided by the act, combined with local funds, is sufficient to complete the classrooms included in the construction project for which the grant is intended.~~

~~(4) Existing~~

Existing law requires the ongoing eligibility of a school district for new construction funding to be determined by making specified calculations, one of which is to add the number of pupils who can be adequately housed in the existing school building capacity of a school district to the number of pupils for whom facilities were provided from any state or local funding source after the existing school building capacity was determined.

This bill would revise the calculation described above by specifying that the 2nd addend is the number of pupils for whom permanent facilities were provided from any state source or permanent facilities provided entirely from a local funding source after the existing school building capacity was determined.

(5)

(2) Existing law requires that funding for an approved new construction school facilities project be released equal to the amount of the local match when the school district certifies that it has entered into a binding contract for completion of the project. The same certification is required to be made in connection with the release of disbursements for modernization projects. If the school district receives an apportionment, but has not met the criteria to have funds released within a period established by the board, but not to exceed 18 months, the board is required to rescind the apportionment and deny the district's application.

This bill would require the school district instead to certify that it has entered into a binding contract for professional services or for construction, or both, in order to complete the approved project. The bill would no longer authorize the board to establish a period of less than 18 months within which a school district is allowed to meet the criteria to have funds released and would establish 18 months as that period. The board would be authorized, at its discretion, to extend the 18-month period.

(6)

(3) The bill also would make technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature to enact~~
2 ~~legislation that would create a Kindergarten-University Public~~

~~Education Facilities Bond Act, to become operative only if approved by the voters at the next statewide general election, and to provide for the submission of the bond act to the voters at that election. It is also the intent of the Legislature that such a bond act, if approved by the voters at that election, would provide for the issuance of _____ (\$_____) of state general obligation bonds to provide aid to school districts, county superintendents of schools, county boards of education, the California Community Colleges, the University of California, the Hastings College of the Law, and the California State University to construct and modernize education facilities.~~

~~SEC. 2. Section 17070.15 of the Education Code is amended to read:~~

~~17070.15. The following terms, wherever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning appears from the context:~~

~~(a) "Apportionment" means a reservation of funds for the purpose of eligible new construction, modernization, or hardship approved by the board for an applicant school district.~~

~~(b) "Attendance area" means the geographical area serving an existing high school and those junior high schools and elementary schools included therein.~~

~~(c) "Board" means the State Allocation Board as established by Section 15490 of the Government Code.~~

~~(d) "Committee" means the State School Building Finance Committee established pursuant to Section 15909.~~

~~(e) "County fund" means a county school facilities fund established pursuant to Section 17070.43.~~

~~(f) "Cost of project" includes, but is not limited to, the cost of all real estate property rights and easements acquired, the cost of developing the site, streets, and utilities immediately adjacent to the site, the cost of other offsite development not immediately adjacent to the site required by the project as consistent with the environmental impact report adopted by the governing board, the cost of construction, reconstruction, or modernization of buildings and the furnishing and equipping, including the purchase of educational technology hardware, of those buildings, the supporting wiring and cabling, and the technological modernization of existing buildings to support that hardware, the cost of plans, specifications, surveys, and estimates of costs, and other expenses that are~~

1 necessary or incidental to the financing of the project. For purposes
2 of this section, “educational technology hardware” includes, but
3 is not limited to, computers, telephones, televisions, and video
4 cassette recorders.

5 (g) “Department” means the Department of General Services.

6 (h) “Fund” means the applicable 1998 State School Facilities
7 Fund, the 2002 State School Facilities Fund, or the 2004 State
8 School Facilities Fund, established pursuant to Section 17070.40.

9 (i) “Good repair” has the same meaning as specified in
10 subdivision (d) of Section 17002.

11 (j) “Modernization” means any modification of a permanent
12 structure that is at least 25 years old, or in the case of a portable
13 classroom, that is at least 20 years old, that will enhance the ability
14 of the structure to achieve educational purposes.

15 (k) “Portable classroom” means a classroom building of one or
16 more stories that is designed and constructed to be relocatable and
17 transportable over public streets, and with respect to a single story
18 portable classroom, is designed and constructed for relocation
19 without the separation of the roof or floor from the building and
20 when measured at the most exterior walls, has a floor area not in
21 excess of 2,000 square feet.

22 (l) “Property” includes all property, real, personal or mixed,
23 tangible or intangible, or any interest therein necessary or desirable
24 for carrying out the purposes of this chapter.

25 (m) “School building capacity” means the capacity of a school
26 building to house pupils.

27 (n) “School district” means a school district or a county office
28 of education. For purposes of determining eligibility under this
29 chapter, “school district” may also mean a high school attendance
30 area.

31 SEC. 3. Section 17070.63 of the Education Code is amended
32 to read:

33 17070.63. (a) The total funding provided under this chapter
34 shall constitute the state’s full and final contribution to the project
35 and for eligibility for state facilities funding represented by the
36 number of unhoused pupils for which the school district is receiving
37 the state grant. As a condition of receipt of funds, a school district
38 shall certify that the grant amount, combined with local funds,
39 shall be sufficient to complete the classrooms included in the school
40 construction project for which the grant is intended.

1 ~~(b) Funds provided to a school district under any article in this~~
2 ~~chapter shall not be counted towards the local match for receipt~~
3 ~~of funds under any other article in this chapter.~~

4 ~~(c) Savings achieved through the efficient and prudent~~
5 ~~expenditure by the school district of these funds shall be retained~~
6 ~~by the district in the county fund for expenditure by the district~~
7 ~~for other high priority capital outlay purposes.~~

8 ~~SEC. 4. Section 17071.75 of the Education Code is amended~~
9 ~~to read:~~

10 ~~17071.75. After a one-time initial report of existing school~~
11 ~~building capacity has been completed, the ongoing eligibility of a~~
12 ~~school district for new construction funding shall be determined~~
13 ~~by making all of the following calculations:~~

14 ~~(a) A school district that applies to receive funding for new~~
15 ~~construction shall use the following methods to determine projected~~
16 ~~enrollment:~~

17 ~~(1) A school district that has two or more schoolsites each with~~
18 ~~a pupil population density that is greater than 115 pupils per acre~~
19 ~~in kindergarten and grades 1 to 6, inclusive, or a schoolsite pupil~~
20 ~~population density that is greater than 90 pupils per acre in grades~~
21 ~~7 to 12, inclusive, as determined by the Superintendent using~~
22 ~~enrollment data from the California Basic Educational Data System~~
23 ~~for the 2004-05 school year, may submit an application for funding~~
24 ~~for projects that will relieve overcrowded conditions. That school~~
25 ~~district may also submit an alternative enrollment projection for~~
26 ~~the fifth year beyond the fiscal year in which the application is~~
27 ~~made using a methodology other than the cohort survival~~
28 ~~enrollment projection method as defined by the board pursuant to~~
29 ~~paragraph (2), to be reviewed by the Demographic Research Unit~~
30 ~~of the Department of Finance, in consultation with the department~~
31 ~~and the Office of Public School Construction. If the Office of~~
32 ~~Public School Construction and the Demographic Research Unit~~
33 ~~of the Department of Finance jointly determine that the alternative~~
34 ~~enrollment projection provides a reasonable estimate of expected~~
35 ~~enrollment demand, a recommendation shall be forwarded to the~~
36 ~~board to approve or disapprove the application, in accordance with~~
37 ~~all of the following:~~

38 ~~(A) Total funding for new construction projects using this~~
39 ~~method shall be limited to five hundred million dollars~~

1 (\$500,000,000), from the Kindergarten-University Public Education
2 Facilities Bond Act of 2004.

3 (B) ~~The eligibility amount for proposed projects that relieve~~
4 ~~overcrowding is the difference between the alternative enrollment~~
5 ~~projection method for the year the application is submitted and the~~
6 ~~cohort survival enrollment projection method, as defined by~~
7 ~~paragraph (2), for the same year, adjusted by the existing pupil~~
8 ~~capacity in excess of the projected enrollment according to the~~
9 ~~cohort survival enrollment projection method.~~

10 (C) ~~The Office of Public School Construction shall determine~~
11 ~~whether each proposed project will relieve overcrowding,~~
12 ~~including, but not limited to, the elimination of the use of Concept~~
13 ~~6 calendars, four track year-round calendars, or busing in excess~~
14 ~~of 40 minutes, and recommend approval to the board. The number~~
15 ~~of unhoused pupil grants requested in the application for funding~~
16 ~~from the eligibility determined pursuant to this paragraph shall be~~
17 ~~limited to the number of seats necessary to relieve overcrowding,~~
18 ~~including, but not limited to, the elimination of the use of Concept~~
19 ~~6 calendars, four track year-round calendars, or busing in excess~~
20 ~~of 40 minutes, less the number of unhoused pupil grants attributed~~
21 ~~to that school as a source school in an approved application~~
22 ~~pursuant to Section 17078.24.~~

23 (D) ~~A school district shall use the same alternative enrollment~~
24 ~~projection methodology for all applications submitted pursuant to~~
25 ~~this paragraph and shall calculate those projections in accordance~~
26 ~~with the same districtwide or high school attendance area used for~~
27 ~~the enrollment projection made pursuant to paragraph (2).~~

28 (2) ~~A school district shall calculate enrollment projections for~~
29 ~~the fifth or 10th year beyond the fiscal year in which the application~~
30 ~~is made. Projected enrollment shall be determined by utilizing the~~
31 ~~cohort survival enrollment projection system, as defined and~~
32 ~~approved by the board. The board may supplement the cohort~~
33 ~~survival enrollment projection with any of the following:~~

34 (A) ~~The number of unhoused pupils that are anticipated as a~~
35 ~~result of dwelling units proposed pursuant to approved and valid~~
36 ~~tentative subdivision maps.~~

37 (B) ~~Modified weighting mechanisms, if the board determines~~
38 ~~that they best represent the enrollment trends of the district.~~
39 ~~Mechanisms pursuant to this subparagraph shall be developed and~~

1 applied in consultation with the Demographic Research Unit of
2 the Department of Finance.

3 (C) An adjustment to reflect the effects on kindergarten and
4 first grade enrollment of changes in birth rates within the school
5 district or high school attendance area boundaries.

6 (3) A school district may submit an enrollment projection for
7 either a 5th year or a 10th year beyond the fiscal year in which the
8 application is made. A school district that bases its enrollment
9 projection calculation on a high school attendance area may use
10 pupil residence in that attendance area to calculate enrollment. A
11 school district that utilizes pupil residence shall do so for all high
12 school attendance areas within the district. A pupil shall not be
13 included in a high school attendance area enrollment projection
14 based on pupil residence unless that pupil was included in the
15 California Basic Educational Data System (CBEDS) report of the
16 district for the same enrollment year. The board may require a
17 district to provide a reconciliation of the districtwide CBEDS and
18 residency data. The board also may adopt regulations to specify
19 the format and certification requirements for a school district that
20 submits residency data.

21 (b) (1) Add the number of pupils that may be adequately housed
22 in the existing school building capacity of the applicant school
23 district as determined pursuant to Article 2 (commencing with
24 Section 17071.10) to the number of pupils for whom permanent
25 facilities were provided from any state source or permanent
26 facilities provided entirely from a local funding source after the
27 existing school building capacity was determined pursuant to
28 Article 2 (commencing with Section 17071.10). For this purpose,
29 the total number of pupils for whom facilities were provided shall
30 be determined using the pupil loading formula set forth in Sections
31 17071.25 and 17071.30.

32 (2) Subtract from the number of pupils calculated in paragraph
33 (1) the number of pupils that were housed in facilities to which
34 the school district or county office of education relinquished title
35 as the result of a transfer of a special education program between
36 a school district and a county office of education or special
37 education local plan area, if applicable. For this purpose, the total
38 number of pupils that were housed in the facilities to which title
39 was relinquished shall be determined using the pupil loading
40 formula adopted by the board pursuant to subparagraph (B) of

1 paragraph (2) of subdivision (a) of Section 17071.25. For purposes
2 of this paragraph, title also includes any lease interest with a
3 duration of greater than five years.

4 (e) Subtract the number of pupils pursuant to subdivision (b)
5 from the number of pupils determined pursuant to paragraph (2)
6 of subdivision (a).

7 (d) The calculations required to establish eligibility under this
8 article shall result in a distinction between the number of existing
9 unhoused pupils and the number of projected unhoused pupils.

10 (e) Apply the increase or decrease resulting from the difference
11 between the most recent report made pursuant to Section 42268,
12 and the report used in determining the baseline capacity of the
13 school district pursuant to subdivision (a) of Section 17071.25.

14 (f) For purposes of calculating projected enrollment pursuant
15 to subdivision (a), the board may adopt regulations to ensure that
16 the enrollment calculation of individuals with exceptional needs
17 receiving special education services is adjusted in the enrollment
18 reporting period in which the transfer occurs and three previous
19 school years as a result of a transfer of a special education program
20 between a school district and a county office of education or a
21 special education local plan area. However, the projected
22 enrollment calculation of a county office of education shall only
23 be adjusted if a transfer of title for the special education program
24 facilities has occurred. The regulations, if adopted, shall ensure
25 that if a transfer of title to special education program facilities
26 constructed with state funds occurs within 10 years after initial
27 occupancy of the facility, the receiving school district or school
28 districts shall remit to the state a proportionate share of any
29 financial hardship assistance provided for the project pursuant to
30 Section 17075.10, if applicable.

31 (g) For a school district with an enrollment of 2,500 or less, an
32 adjustment in enrollment projections shall not result in a loss of
33 ongoing eligibility to that school district for a period of three years
34 from the date of the approval of eligibility by the board.

35 *SECTION 1. Section 17071.75 of the Education Code is*
36 *amended to read:*

37 17071.75. After a one-time initial report of existing school
38 building capacity has been completed, the ongoing eligibility of a
39 school district for new construction funding shall be determined
40 by making all of the following calculations:

1 (a) A school district that applies to receive funding for new
2 construction shall use the following methods to determine projected
3 enrollment:

4 (1) A school district that has two or more schoolsites each with
5 a pupil population density that is greater than 115 pupils per acre
6 in kindergarten and grades 1 to 6, inclusive, or a schoolsite pupil
7 population density that is greater than 90 pupils per acre in grades
8 7 to 12, inclusive, as determined by the Superintendent using
9 enrollment data from the California Basic Educational Data System
10 for the 2004–05 school year, may submit an application for funding
11 for projects that will relieve overcrowded conditions. That school
12 district may also submit an alternative enrollment projection for
13 the fifth year beyond the fiscal year in which the application is
14 made using a methodology other than the cohort survival
15 enrollment projection method as defined by the board pursuant to
16 paragraph (2), to be reviewed by the Demographic Research Unit
17 of the Department of Finance, in consultation with the department
18 and the Office of Public School Construction. If the Office of
19 Public School Construction and the Demographic Research Unit
20 of the Department of Finance jointly determine that the alternative
21 enrollment projection provides a reasonable estimate of expected
22 enrollment demand, a recommendation shall be forwarded to the
23 board to approve or disapprove the application, in accordance with
24 all of the following:

25 (A) Total funding for new construction projects using this
26 method shall be limited to five hundred million dollars
27 (\$500,000,000), from the Kindergarten-University Public Education
28 Facilities Bond Act of 2004.

29 (B) The eligibility amount for proposed projects that relieve
30 overcrowding is the difference between the alternative enrollment
31 projection method for the year the application is submitted and the
32 cohort survival enrollment projection method, as defined by
33 paragraph (2), for the same year, adjusted by the existing pupil
34 capacity in excess of the projected enrollment according to the
35 cohort survival enrollment projection method.

36 (C) The Office of Public School Construction shall determine
37 whether each proposed project will relieve overcrowding,
38 including, but not limited to, the elimination of the use of Concept
39 6 calendars, four track year-round calendars, or busing in excess
40 of 40 minutes, and recommend approval to the board. The number

1 of unhoused pupil grants requested in the application for funding
2 from the eligibility determined pursuant to this paragraph shall be
3 limited to the number of seats necessary to relieve overcrowding,
4 including, but not limited to, the elimination of the use of Concept
5 6 calendars, four track year-round calendars, or busing in excess
6 of 40 minutes, less the number of unhoused pupil grants attributed
7 to that school as a source school in an approved application
8 pursuant to Section 17078.24.

9 (D) A school district shall use the same alternative enrollment
10 projection methodology for all applications submitted pursuant to
11 this paragraph and shall calculate those projections in accordance
12 with the same districtwide or high school attendance area used for
13 the enrollment projection made pursuant to paragraph (2).

14 (2) A school district shall calculate enrollment projections for
15 the fifth *or 10th* year beyond the fiscal year in which the application
16 is made. Projected enrollment shall be determined by utilizing the
17 cohort survival enrollment projection system, as defined and
18 approved by the board. The board may supplement the cohort
19 survival enrollment projection with any of the following:

20 (A) The number of unhoused pupils that are anticipated as a
21 result of dwelling units proposed pursuant to approved and valid
22 tentative subdivision maps.

23 (B) Modified weighting mechanisms, if the board determines
24 that they best represent the enrollment trends of the district.
25 Mechanisms pursuant to this subparagraph shall be developed and
26 applied in consultation with the Demographic Research Unit of
27 the Department of Finance.

28 (C) An adjustment to reflect the effects on kindergarten and
29 first grade enrollment of changes in birth rates within the school
30 district or high school attendance area boundaries.

31 (3) ~~(A)~~—A school district may submit an enrollment projection
32 for either a 5th year or a 10th year beyond the fiscal year in which
33 the application is made. A school district that bases its enrollment
34 projection calculation on a high school attendance area may use
35 pupil residence in that attendance area to calculate enrollment. A
36 school district that utilizes pupil residence shall do so for all high
37 school attendance areas within the district. A pupil shall not be
38 included in a high school attendance area enrollment projection
39 based on pupil residence unless that pupil was included in the
40 California Basic Educational Data System (CBEDS) report of the

1 district for the same enrollment year. The board may require a
2 district to provide a reconciliation of the districtwide CBEDS and
3 residency data. The board also may adopt regulations to specify
4 the format and certification requirements for a school district that
5 submits residency data.

6 (b) (1) Add the number of pupils that may be adequately housed
7 in the existing school building capacity of the applicant school
8 district as determined pursuant to Article 2 (commencing with
9 Section 17071.10) to the number of pupils for whom *permanent*
10 facilities were provided from any state *source* or *permanent*
11 *facilities provided entirely from a* local funding source after the
12 existing school building capacity was determined pursuant to
13 Article 2 (commencing with Section 17071.10). For this purpose,
14 the total number of pupils for whom facilities were provided shall
15 be determined using the pupil loading formula set forth in ~~Section~~
16 *Sections 17071.25 and 17071.30.*

17 (2) Subtract from the number of pupils calculated in paragraph
18 (1) the number of pupils that were housed in facilities to which
19 the school district or county office of education relinquished title
20 as the result of a transfer of a special education program between
21 a school district and a county office of education or special
22 education local plan area, if applicable. For this purpose, the total
23 number of pupils that were housed in the facilities to which title
24 was relinquished shall be determined using the pupil loading
25 formula adopted by the board pursuant to subparagraph (B) of
26 paragraph (2) of subdivision (a) of Section 17071.25. For purposes
27 of this paragraph, title also includes any lease interest with a
28 duration of greater than five years.

29 (c) Subtract the number of pupils pursuant to subdivision (b)
30 from the number of pupils determined pursuant to paragraph (2)
31 of subdivision (a).

32 (d) The calculations required to establish eligibility under this
33 article shall result in a distinction between the number of existing
34 unhoused pupils and the number of projected unhoused pupils.

35 (e) Apply the increase or decrease resulting from the difference
36 between the most recent report made pursuant to Section 42268,
37 and the report used in determining the baseline capacity of the
38 school district pursuant to subdivision (a) of Section 17071.25.

39 (f) For purposes of calculating projected enrollment pursuant
40 to subdivision (a), the board may adopt regulations to ensure that

1 the enrollment calculation of individuals with exceptional needs
2 receiving special education services is adjusted in the enrollment
3 reporting period in which the transfer occurs and three previous
4 school years as a result of a transfer of a special education program
5 between a school district and a county office of education or a
6 special education local plan area. However, the projected
7 enrollment calculation of a county office of education shall only
8 be adjusted if a transfer of title for the special education program
9 facilities has occurred. The regulations, if adopted, shall ensure
10 that if a transfer of title to special education program facilities
11 constructed with state funds occurs within 10 years after initial
12 occupancy of the facility, the receiving school district or school
13 districts shall remit to the state a proportionate share of any
14 financial hardship assistance provided for the project pursuant to
15 Section 17075.10, if applicable.

16 (g) For a school district with an enrollment of 2,500 or less, an
17 adjustment in enrollment projections shall not result in a loss of
18 ongoing eligibility to that school district for a period of three years
19 from the date of the approval of eligibility by the board.

20 ~~SEC. 5:~~

21 *SEC. 2.* Section 17072.32 of the Education Code is amended
22 to read:

23 17072.32. For any project that has received an apportionment
24 pursuant to Section 17072.30, funding shall be released in amounts
25 equal to the amount of the local match upon certification by the
26 school district that the school district has entered into a binding
27 contract for professional services or for construction, or both, in
28 order to complete the approved project.

29 ~~SEC. 6:~~

30 *SEC. 3.* Section 17074.15 of the Education Code is amended
31 to read:

32 17074.15. (a) The board shall release disbursements to school
33 districts with approved applications for modernization; to the extent
34 state funds are available for the state's 80-percent share; and the
35 school district has provided its 20-percent local match. Subject to
36 the availability of funds, the board shall apportion funds to an
37 eligible school district only upon the approval of the project by
38 the Department of General Services pursuant to the Field Act, as
39 defined in Section 17281, including, but not limited to, a project
40 that complies with the Field Act by complying with Section

1 17280.5, and evidence that the certification by the school district
2 that the required 20-percent matching funds from local sources
3 have been expended by the district for the project, or have been
4 deposited in the county fund or will be expended by the district
5 by the time of completion of the project, and evidence that the
6 district has entered into a binding contract for professional services
7 or for construction, or both, in order to complete the project. If
8 state funds are insufficient to fund all qualifying school districts,
9 the board shall fund all qualifying school districts in the order in
10 which the application for funding was approved by the board.

11 (b) This section shall apply only to an application filed on or
12 before April 29, 2002, regardless of the source of state bond
13 funding.

14 ~~SEC. 7.~~

15 *SEC. 4.* Section 17074.16 of the Education Code is amended
16 to read:

17 17074.16. (a) The board shall release disbursements to school
18 districts with approved applications for modernization, to the extent
19 state funds are available for the state's 60-percent share, and the
20 school district has provided its 40-percent local match. Subject to
21 the availability of funds, the board shall apportion funds to an
22 eligible school district only upon the approval of the project by
23 the Department of General Services pursuant to the Field Act, as
24 defined in Section 17281, including, but not limited to, a project
25 that complies with the Field Act by complying with Section
26 17280.5, and evidence that the certification by the school district
27 that the required 40-percent matching funds from local sources
28 have been expended by the district for the project, or have been
29 deposited in the county fund or will be expended by the district
30 by the time of completion of the project, and evidence that the
31 district has entered into a binding contract for professional services
32 or for construction, or both, in order to complete the project. If
33 state funds are insufficient to fund all qualifying school districts,
34 the board shall fund all qualifying school districts in the order in
35 which the application for funding was approved by the board.

36 (b) This section shall apply only to an application that was filed
37 after April 29, 2002.

38 ~~SEC. 8.~~

39 *SEC. 5.* Section 17074.26 of the Education Code is amended
40 to read:

1 17074.26. The board shall adopt regulations to adjust the
2 per-pupil amounts set forth in Section 17074.10 for modernization
3 projects for school buildings that are 50 years old or older based
4 upon the higher costs associated with modernizing older buildings.

5 ~~SEC. 9.~~

6 *SEC. 6.* Section 17076.10 of the Education Code is amended
7 to read:

8 17076.10. (a) A school district that has received any funds
9 pursuant to this chapter shall submit a summary report of
10 expenditure of state funds and of district matching funds annually
11 until all state funds and district matching funds are expended, and
12 shall then submit a final report to the board. The board may require
13 an audit of these reports or other district records to ensure that all
14 funds received pursuant to this chapter are expended in accordance
15 with program requirements.

16 (b) If the board finds that a participating school district has made
17 no substantial progress towards increasing its pupil capacity or
18 modernizing its facilities within 18 months of the receipt of any
19 funding pursuant to this chapter, the board shall rescind the
20 apportionment in an amount equal to the unexpended funds.

21 (c) (1) If the board, after the review of expenditures or audit
22 has been conducted pursuant to subdivision (a), determines that a
23 school district failed to expend funds in accordance with this
24 chapter, the department shall notify the school district of the
25 amount that must be repaid to the 1998 State School Facilities
26 Fund, the 2002 State School Facilities Fund, or the 2004 State
27 School Facilities Fund, as the case may be, within 60 days. If the
28 school district fails to make the required payment within 60 days,
29 the department shall notify the Controller and the school district
30 in writing, and the Controller shall deduct an amount equal to the
31 amount received by the school district under this subdivision, from
32 the school district's next principal apportionment or apportionments
33 of state funds to the school district, other than basic aid
34 apportionments required by Section 6 of Article IX of the
35 California Constitution. Any amounts obtained by the Controller
36 shall be deposited into the 1998 State School Facilities Fund, the
37 2002 State School Facilities Fund, or the 2004 State School
38 Facilities Fund, as appropriate.

39 (2) Notwithstanding paragraph (1), if the board determines that
40 repayment of the full liability within 60 days after the board action

1 would constitute a severe financial hardship, as defined by the
2 board, for the school district, the board shall approve a plan of
3 equal annual payments over a period of up to five years. The plan
4 shall include interest on each year's outstanding balance at the rate
5 earned on the state's Pooled Money Investment Account during
6 that year. The Controller shall withhold amounts, other than basic
7 aid apportionments required by Section 6 of Article IX of the
8 California Constitution, pursuant to the plan.

9 (d) If a school district has received an apportionment, but has
10 not met the criteria to have funds released pursuant to Section
11 17072.32, 17074.15, or 17074.16 within 18 months, the board
12 shall rescind the apportionment and deny the district's application.
13 The board may, at its discretion, extend the time period in which
14 a school district must have met the criteria to have funds released
15 pursuant to Section 17072.32, 17074.15, or 17074.16.